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Paper No.

Brinks Hofer Gilson & Lione  
P.O. Box 10395  
Chicago IL 60610

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MAY 22 2008

**OFFICE OF PETITIONS**

In re Application of :  
Oskielunas et al. : DECISION ON PETITION  
Application No. 09/925,758 :  
Filed: August 9, 2001 :  
Attorney Docket No. 8567.US02 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed April 4, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, petitioner may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed June 5, 2007. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A reply was filed on December 6, 2007, with a certificate of mailing dated December 4, 2007. The reply included an authorization to charge the fee for the necessary extension of time for response within the third month to a Deposit Account. However, the Deposit Account was determined

not to have sufficient funds to pay the extension of time fee. As the extension of time was necessary to make the response timely, the application became abandoned effective September 6, 2007 for failure to submit a timely response to the non-final Office action. A courtesy Notice of Abandonment was mailed on December 12, 2007.

Petitioner maintains that a response was timely filed. Specifically, petitioner cites the reply filed on December 6, 2007, with a certificate of mailing dated December 4, 2007, and an accompanying extension of time.

Petitioner's arguments and evidence have been considered but not found persuasive. The extension of time authorized the fee to be charged to Deposit Account No. 50-1817. Petitioner does not submit evidence to overcome the Office's conclusion that the Deposit Account did not have sufficient funds to pay the \$1,050 extension of time necessary to make the response timely. As shown in the image file wrapper for this application, Office records show that when presented the Deposit Account had only a \$746 balance.

In view thereof, the holding of abandonment is considered proper and will not be withdrawn. The petition under § 1.181 is dismissed.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

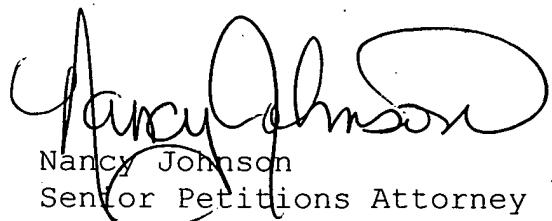
By fax: (571) 273-8300  
ATTN: Office of Petitions

By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Application No. 09/925,758

Page 3

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions